IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

WP(C).No. 13244 of 2006(B)

PETITIONER:

RAMACHANDRAN PILLAI. P.,
(SPECIAL ASSISTNAT, KSRTC, PAPPANAMCODE,
RETD.ON 31/5/2005), PREM NIVAS,
VEDIVACHAN KOVIL, BALARAMAPURAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.K.P.RAJEEVAN

RESPONDENTS:

---

1. KERALA STATE ROAD TRANSPORT
CORPORATION, REP. BY ITS MANAGING DIRECTOR,
TRANSPORT BHAVAN, FORT,
THIRUVANANTHAPURAM.

2. DISTRICT TRANSPORT OFFICER,
KSRTC, PAPPANAMCODE, THIRUVANANTHAPURAM.

3. ASSISTANT PERSONNEL OFFICER,
(PENSION & AUDIT SECTION.), KSRTC,
TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM.

BY ADV. SHRI JOHNSON P.JOHN, SC, KSRTC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF 1ST AND 3RD PAGES OF PENSION PAYMENT ORDER.

EXT.P2 – TRUE COPY OF RELIEVING ORDER DT.1.11.1978.

EXT.P3 – TRUE COPY OF MEMO DT.27.9.1978.

EXT.P4 – TRUE COPY OF ORDER DATED 3.2.1979.

EXT.P5 – TRUE COPY OF LETTER DT.6.1.2006

EXT.P6 – TRUE COPY OF LETTER DT.22.3.2006

/TRUE COPY/

PIUS C. KURIAKOSE, J.

.....

W.P.(C) No.13244 OF 2006

.....

DATED THIS THE 6TH FEBRUARY, 2007

J U D G M E N T

The petitioner who retired as a Special Assistant from the K.S.R.T.C. on 31.5.2005 is aggrieved in that only 26 years have been reckoned with as qualifying service for pension. The Government service which he had undergone prior to his service in the K.S.R.T.C., he complains, is not counted as qualifying service for pension. The petitioner relies on Clause XXIII (2) of the Bilateral Agreement dated 13.4.1979 which is applicable to the employees of the K.S.R.T.C. He has at ground B quoted the same as follows:-

"Service under State Government prior to joining the Corporation will qualify for pension provided the break between Government Service and KSRTC service shall not exceed three months."

2. The contention which is raised by the K.S.R.T.C. in the counter affidavit is that the petitioner who was relieved from Government service as per Ext.P2 dated 1.11.1978 did enter the service of the Corporation actually on 3.2.1979. Thus the contention is that the break period exceeds the prescribed period of three months by four days. Ext.P3 dated 27.9.1978 is the memo issued by the K.S.R.T.C. by which the petitioner was requested to report for duty in the

Corporation on 23.10.1978. The endorsement on Ext.P3 will show that he did report on the same day. His claim that on the same day he was sent for training for three days and he was paid stipend at the rate of Rs.6/- per day is not disputed in the counter affidavit. Ext.P4 is the memo by which he was given posting in the K.S.R.T.C. That memo, as rightly submitted by learned Standing Counsel for the K.S.R.T.C., is dated 3.2.1979. But on a careful examination it will be seen that Ext.P4 was issued on the basis of Chief Office order dated 16.1.1979. Importantly, the petitioner who received Ext.P4 on 3.2.1979 has reported for actual duty on that day itself. Having regard to the principles laid down by a Division Bench of this Court in **Lekshmanan v. State of Kerala** (1995 (1) KLT 115), the period of pre-appointment training undergone by the incumbent can be considered as duty itself. Under these circumstances, I am of the view that the petitioner is entitled for relief.

Accordingly the Writ Petition will stand allowed, Exts.P5 and P6 are quashed and there will be a direction to the respondents to take the Government service undergone by the petitioner prior to his joining the service of the K.S.R.T.C. also into account as qualifying service for the purpose of pension and to pass orders revising the

petitioner's pension. All monetary benefits flowing out of the above direction shall be released to the petitioner without further delay and at any rate within two months of receiving copy of this judgment. There will be no order as to costs.

(PIUS C. KURIAKOSE, JUDGE)

tgl